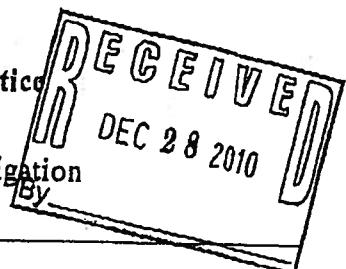




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U.S. Department of Justice

Federal Bureau of Investigation



Office of the General Counsel

Clarksburg, West Virginia 26306

December 21, 2010

Major Charles E. Bush  
 Commander  
 Office of Emergency and Specialized Services  
 Michigan State Police  
 Post Office Box 30634  
 Lansing, MI 48913

Dear Major Bush :

Reference is made to an e-mail dated December 10, 2010, requesting a review of Michigan Compiled Laws (MiCL), Sections 256.649 and 28.4251, to determine if they qualify for access to FBI criminal history record information (CHRI) pursuant to Public Law (Pub. L.) 92-544. Reference is also made to a telephone conversation on December 16, 2010, between Mr. Chad Canfield and Ms. Lisa D. Moore, Paralegal Specialist, of the Access Integrity Unit (AIU).

The AIU's legal staff has completed its review of MiCL 256.649, which replaces repealed MiCL 256.602, pertaining to criminal record checks for certification of driver education providers and driver education instructors which was previously approved by the AIU. The AIU has determined that MiCL 256.649 does not meet the standards of Pub. L. 92-544 for access to FBI CHRI. Specifically, the statute does not mention the requirement that applicants be fingerprinted and authorize the submission of the fingerprints to the FBI for a national background check. As discussed in the telephone conversation referenced above, a grace period will be extended until July 1, 2011, to allow the Michigan legislature time to amend the statute to include the necessary Pub. L. 92-544 language. Once the statute is amended, it must be resubmitted to the AIU for approval and addition to the Michigan state statute list. Please note that during the grace period, fingerprints should be submitted under MiCL 256.649 as the new statutory authority for background checks of driver education providers and driver education instructors.

RW CRB P  
 12/28/10  
 Chad

I - Mr. Chad Canfield

Lansing, MI 48913  
 Post Office Box 30634  
 Michigan State Police  
 Criminal History Unit  
 Manager

Office of the General Counsel  
 Access Integrity Unit  
 Unit Chief  
 Thomas G. Aldridge

Sincerely yours,

*Al G. Aldridge*

MS. Moore et (304) 625-5054.

Should you have further questions concerning this matter, please contact

The AII's legal staff has also completed its review of MICL 28.4251, pertaining to the renewal of a license to carry a concealed weapon, and has determined that fingerprints should continue to be submitted under the previous law approved MICL 28.425b since renewals of licenses to carry concealed weapons are to be issued under the same manner as stated in MICL 28.4251.

Additionally, FBI policy requires that fingerprints be initially submitted to the state identification bureau (for a check of state records) and thereafter forwarded to the FBI for a "national" criminal history check.

- a. The statute must exist as a result of a legislative enactment;
- b. It must require the fingerprinting of applicants who are to be subjected to a national criminal history background check;
- c. It must, expressly ("submit to the FBI") or by implication ("submit for a national check"), authorize the use of FBI records for the screening of applicants;
- d. It must identify the specific category(ies) of licensees/employees falling within its purview, thereby avoiding overbreadth;
- e. It must not be against public policy; and
- f. It may not authorize receipt of the CRBI by a private entity.

As you may be aware, the FBI, with the assistance of the United States Department of Justice, has determined the parameters of Pub. L. 92-544. The criteria are as follows:

Major Charles E. Bush